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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of the 2662nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 16 August 2018, at 3 p.m.

Chair: Mr. Amir

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Combined tenth and eleventh periodic reports of Japan

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined tenth and eleventh periodic reports of Japan (CERD/C/JPN/10-11 and CERD/C/JPN/Q/10-11)

1. *At the invitation of the Chair, the delegation of Japan took places at the Committee table.*

2. **Mr. Ihara** (Japan), introducing his country's combined tenth and eleventh periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/JPN/10-11), which had been drafted with the broad participation of civil society, said that the Government of Japan reaffirmed its commitment to cooperating with the international community and with civil society to protect and promote human rights for all. In the intervening period since the previous dialogue with the Committee, Japan had continued its efforts to improve the human rights situation at home and abroad. In recent years, the issue of hate speech had attracted growing attention. The Government had responded by enacting, in 2016, the Hate Speech Elimination Act, which aimed to foster public awareness of the issue, promote understanding through human rights education and bolster efforts to eliminate unfair discriminatory speech and behaviour. Measures carried out within the framework of that Act included improving access to human rights counselling for foreigners and establishing a counselling platform for victims of hate speech. Regarding the indigenous Ainu people, the Government was in the process of constructing a national centre aimed at reviving the Ainu culture and promoting ethnic harmony. Scheduled to open in 2020, the centre would stand as a symbol of a society that cherished vibrant, rich and diverse cultures and respected the dignity of the indigenous people of Japan.

3. As an island nation, a stereotype existed of Japan as an insular and exclusive culture; and yet, millions of tourists were warmly welcomed to the country each year. Japanese people also cheered on athletes from diverse origins and backgrounds. As host of the upcoming 2020 Olympic and Paralympic Games — and in compliance with the Convention and the Olympic Charter, which established that sport was a human right to be enjoyed by all without discrimination — Japan would continue to work tirelessly to contribute to the protection and promotion of human rights and would not tolerate any form of discrimination, including discrimination based on race or ethnicity.

4. Replying to some of the issues raised by the Committee in its list of themes (CERD/C/JPN/Q/10-11), he said that, as part of efforts to eliminate hate speech, the Ministry of Justice had increased the number of foreign languages available for callers to a human-rights-related hotline and had expanded its network of human rights counselling centres for foreigners. To combat hate speech in the media and online, the Ministry of Justice had conducted a number of awareness-raising activities, including holding lectures on the subject, and had published content on the human rights of foreigners on its website and placed advertising banners on search engine websites. Appropriate measures were taken whenever complaints of online hate speech were made to the Legal Affairs Bureaus, which assessed the information to determine whether or not a human rights violation had occurred. In the event that the alleged act was deemed to be illegal, the Bureau concerned would ask the online service provider to delete the content in question. In 2017, 568 such requests had been made. In other cases, the Bureau would support the victim in taking his or her own measures. The Ministry of Internal Affairs and Communications was also working with online service providers to develop Model Terms and Conditions aimed at combating illegal and harmful content online.

5. Regarding paragraph 9 of the list of themes, concerning the situation of the indigenous Ainu people, the Government remained committed to implementing policy measures to protect and promote the rights of Ainu persons, all the while taking into account their views and ensuring their involvement. A survey on the living conditions of the Ainu people in Hokkaido Prefecture had revealed continuing improvements in their living standards. Efforts to close the remaining gap included government-backed

comprehensive programmes, such as counselling services and activities to raise awareness among the Ainu people of their human rights. Measures to ensure equal opportunity in education included scholarships to encourage Ainu students to progress to higher education. Indeed, the number of Ainu entering tertiary education had increased by 7.5 per cent between 2013 and 2017. The Government was continuing in its endeavours to digitize audio materials in the Ainu language in an effort to preserve that endangered language. It had also held events, with the participation of Ainu speakers, to raise awareness of languages that were in danger of extinction and had met with researchers and local officials working in that subject area with a view to exchanging information. Support was also provided for the projects of the Foundation for Research and Promotion of Ainu Culture, which aimed to promote Ainu research, language and culture. As far as land ownership was concerned, the Ainu people had the same property rights as anyone else in Japan. However, plans on ways to restore traditional Ainu living habitats were being considered as another step towards preserving Ainu culture.

6. Legislation to ensure the proper training and protection of technical interns had come into force in November 2017, along with the attendant basic policy. Among other aspects, the law prohibited violations of the human rights of foreign trainees, set out the duties and responsibilities of supervising organizations and established an organization for the training of technical interns. On-site inspections were conducted by labour inspectors to ensure compliance with all current legislation.

7. Regarding human trafficking, Japan had become a party to the United Nations Convention against Transnational Organized Crime and the Trafficking in Persons Protocol in 2017. Efforts had been made to gain a better understanding of human trafficking in order to prevent its occurrence, identify victims and provide them with appropriate support. For example, the national police force collected relevant information, conducted awareness-raising activities and operated an anonymous hotline with a view to identifying and protecting victims at an early stage. Women's Consulting Offices planned to increase the support they offered to trafficking victims, which included providing them with clothing, housing and other services, while the coastguard provided victims of crimes, including trafficking victims, with information on legal procedures in Japan. The Immigration Control and Refugee Recognition Act had also been amended to grant foreign trafficking victims special permission to stay in the country.

8. The issue of comfort women had arisen long before the ratification of the Convention by Japan and it did not fall under article 1 of the Convention. However, the Government recognized that the issue had been an affront to the honour and dignity of a large number of women, and it had repeatedly presented sincere apologies and expressed its remorse to former comfort women. Issues of compensation had been settled by a number of treaties and the Government had made large contributions to the Asian Women's Fund, which had offered medical and welfare support and atonement funds to former comfort women until 2007. The Governments of Japan and the Republic of Korea had reached an agreement in December 2015, in which they had confirmed that the comfort women issue had been finally and irreversibly resolved.

9. **Mr. Bossuyt** (Country Rapporteur) requested updated information on efforts to align the definition of racial discrimination in the Constitution with article 1 of the Convention, to enact comprehensive legislation prohibiting racial discrimination and to establish a national human rights institution that complied with the Paris Principles. He also requested information on measures taken to withdraw the State party's reservations to article 4 (a) and (b) of the Convention; on the implementation and impact of measures to combat hate speech in the media and on the Internet, particularly through the Broadcast Act; on measures to prevent incitement to racial discrimination and racist violence through the media; and on the numbers of complaints, investigations, prosecutions and convictions for hate speech and hate crimes, including sanctions against public officials and politicians.

10. As the Hate Speech Elimination Act of 2016 only targeted persons lawfully residing in Japan, failed to address hate speech by private individuals and was reportedly an ineffectual remedy for minorities, the State party should promptly enact a comprehensive basic law to prohibit discrimination. It should also strictly condemn discriminatory statements by public officials and, if possible, remove them from office. Referring to the

incident described in paragraph 130 of the periodic report, he asked which legal provisions had been invoked to prosecute the perpetrators and what penalties had been imposed.

11. The section of the State party's report on the Ainu people failed to provide information on the Ainu Advisory Council, Ainu representation in the Council, and the rights of Ainu to land and natural resources. The Committee had been informed of cases of discrimination in the workplace, schools and public services. Ainu groups had demanded national social welfare policies and educational grants, special representation in local and national governments, and a formal governmental apology for historical injustices. He requested information on the legal effects and impact of the Diet resolution that had recognized the Ainu as an indigenous ethnic group; on measures taken to improve the access of Ainu people to employment and education, to protect their rights to land and natural resources, and to realize their right to their culture and language; and on the number of Ainu representatives involved in the Promotion Policy and other consultative bodies. The State party should conduct research on the remains and burial artefacts of the Ainu people, incorporate their history and culture as a subject in public education, enable them to receive education in their own language and enhance economic support for their right to higher education.

12. Noting that the State party rejected the status of the Ryukyuans as an indigenous people, he said that the Association of the Indigenous Peoples in the Ryukyus had encouraged the Committee to recommend to the State party that it recognize all peoples in the Ryukyus, apart from those who had migrated from Japan, as indigenous and that it protect their culture, tradition and languages.

13. Buraku advocacy groups continued to report that, despite socioeconomic improvements, widespread discrimination persisted in employment, marriage, housing and property assessment. The State party should investigate all incidents relating to illegal abuses of family registration and punish those responsible, because illegal access to such data could expose families to discriminatory acts. The State party should also identify discrimination against the Burakumin as discrimination based on descent and should establish a system of legal relief for victims of such discrimination.

14. As the Committee had received reports of ethnic profiling of Muslims, it urged the State party to prevent its law enforcement officials from relying on ethnic or ethno-religious profiling of Muslims.

15. The State party provided no specific information in its report on measures to prevent violence against indigenous and minority women, on reported cases and prosecutions, and on a review or reform of discriminatory aspects of the current legislation. The Committee would welcome information on the impact of the 2015 Fourth Basic Plan for Gender Equality on the prevention of violence against minority and indigenous women; on the number of reported cases of violence; and on measures taken to prevent the expulsion of foreign women married to Japanese citizens or to non-citizens with permanent residence in the event of divorce.

16. The agreement between the Governments of Japan and of the Republic of Korea on comfort women had been criticized by civil society organizations and historians for its failure to provide an official, unequivocal recognition of responsibility by Japan for serious human rights violations committed by its military against women and girls before and during the Second World War. The Committee on the Elimination of Discrimination against Women had expressed regret in its concluding observations on the combined seventh and eighth periodic reports of Japan in 2016 (CEDAW/C/JPN/CO/7-8) that the agreement had not fully adopted a victim-centred approach and had recommended that full and effective redress and reparations should be provided to the victims. The Committee would welcome additional information on efforts to resolve the issue of comfort women, including the outcome of investigations into violations of their rights and the provision of adequate reparations to surviving comfort women and their families.

17. It had been report d that foreign permanent residents in the State party, including many who were born, raised and educated in the country, were subjected to various forms of entrenched societal discrimination, including restricted access to housing, education, health care and employment opportunities.

18. The Technical Intern Training Programme had been harshly criticized by human rights advocates for causing a wide range of human rights abuses. The number of trainees had increased by 63 per cent in three years and now stood at about 275,000. It had been reported that in November 2017 the Government had accepted the first of 10,000 Vietnamese nationals to be admitted over a three-year period to meet the country's labour shortage. Non-governmental organizations (NGOs) maintained that the Government's oversight was insufficient. The Committee requested additional information on the implementation and impact of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees.

19. According to a recent Foreign Residents Survey commissioned by the Ministry of Justice, 40 per cent of the more than 4,000 foreign nationals surveyed claimed to have been refused tenancy because of their status; 30 per cent claimed to have been subjected to insulting or discriminatory remarks; and 25 per cent claimed to have been denied employment. The Committee had also been informed that foreign nationals and citizens who looked like foreign nationals were prohibited from entering privately owned facilities serving the public, including hotels and restaurants. The Government allegedly failed to enforce laws prohibiting such restrictions.

20. According to the State party, any person employed by an applicable company was eligible for services, regardless of nationality, under the Welfare Pension Insurance Law and the Health Insurance Law. He asked whether the Committee could infer that nationality was never a factor of exclusion of a person's right to a pension.

21. The Committee would welcome a relaxation of the nationality requirement for access to office as a civil servant, at least for long-term foreign residents and people from the former colonies and their descendants. Settled foreign nationals suffering from poverty should also be entitled to receive public assistance. The State party should terminate the requirement that permanent residents obtain a re-entry permit prior to departure from the country. The Supreme Court should also reform its practice of refusing to appoint foreign nationals as civil and family conciliation commissioners.

22. Although some Koreans had lived for many generations in Japan, they remained foreign nationals and were prevented from voting in local elections and working as civil servants. In July 2017, the Osaka District Court had ruled as illegal the Government's exclusion of Osaka Korean High School from its high school education tuition waiver programme. Korean schools were excluded due to concerns that the subsidies might be misused because of the schools' historical ties to the Democratic People's Republic of Korea. The Committee recommended that Korean schools be covered by the Act on Payment of the High School Tuition Support Fund and that local governments should apply the subsidy payment system to Korean schools in accordance with the principle of children's equal right to education.

23. The Action Plan to Combat Trafficking in Persons had been updated in 2014, but the impact of the updates was unclear. Statistics on the number of convictions had been provided, but the number of arrests and convictions was quite low.

24. In 2017, asylum applications in Japan had risen to almost 20,000. However, the recognition rate, at just 0.17 per cent, was extremely low. At the end of 2016, 430 asylum seekers had been detained. The Committee had been informed that the detention of asylum seekers for unspecified periods remained a problem. Applicants for refugee status were normally unable to work unless they had valid short-term visas. The Refugee Assistance Headquarters provided small stipends to some applicants who faced financial difficulties. As persons whose refugee applications were pending or on appeal were denied the right to social welfare, they were completely dependent on overcrowded government shelters, illegal employment or NGO assistance. Asylum seekers were sometimes informally employed without work permits on provisional release from detention, which rendered them vulnerable to mistreatment. The State party should therefore introduce a maximum period for immigration detention and allow applicants for refugee status to work once six months had elapsed since their application.

25. **Mr. Kut**, speaking as Follow-up Coordinator, said that the Committee had requested the State party in its previous concluding observations (CERD/C/JPN/CO/7-9), adopted in

August 2014, to submit an interim follow-up report on issues raised in three paragraphs within one year. The State party had submitted two follow-up reports, the first in August 2016 and the second in December 2016. He would welcome clarification of the label "Spouse or Child of Japanese National" in annex 7 to the State party's report, which gave information relating to "foreign residents". He found it strange that a child of a Japanese national should be considered a foreign resident.

26. **Mr. Marugán** said that he wondered whether the State party intended to withdraw its reservations to article 4 of the Convention, as the Committee had previously recommended. If not, he asked the delegation to explain, in the terms of the Committee's general recommendation No. 35, why the State party considered them necessary.

27. According to the State party's report, Japan would fulfil its obligations under article 4 only provided they did not conflict with constitutional guarantees, notably on freedom of expression. Thus, in the case referred to in paragraph 130 of the report and mentioned by Mr. Bossuyt, the four individuals who had been advocating exclusion of Korean schools had been convicted of the crimes of forcible obstruction of business and insulting behaviour. Did that mean the court had not deemed racial prejudice to be an aggravating factor and that there had been no conviction for incitement to racial discrimination? As he understood it, the Hate Speech Elimination Act did not criminalize such actions and hate speech and hate crimes remained widespread. In that context, he would appreciate an explanation, again in the terms of general recommendation No. 35, of the precise effects of the State party's reservations to article 4 in terms of national law and policy.

28. As he understood it, crimes of violence were punished but no account was taken of any racist motive for such crimes. Again he would appreciate an explanation of the precise effects of the reservations in that regard. He wondered, for example, whether it would be a criminal offence to utter the words "Kill Koreans", whether such a case had ever arisen and what action had been taken. Did the State party not view such utterances as incitement to racial violence? If it did, did it not also agree that freedom of speech should be restricted in such cases?

29. According to the Ministry of Justice foreign residents survey conducted in March 2017, around 40 per cent of respondents had experienced discrimination in housing, 25 per cent had encountered discrimination in employment and 30 per cent had received insults in the past five years. That revealed a situation of serious discrimination. He would like to know whether the survey was to be conducted each year. He would also like to know whether the State party had any statistics on hate crimes and hate speech.

30. He wondered whether victims felt afraid to make complaints. If so, what was done, either directly by local government or municipalities, or indirectly by means of financial or other support to concerned NGOs, to help victims overcome that fear? He would like to know whether training on hate speech and hate crimes was provided to the judiciary, the police and government officials, and what impact the State party believed education had generally on hate speech.

31. He would like to know what the requirements were for obtaining Japanese nationality. Lastly, he asked whether Koreans felt free to wear ethnic dress, what difficulties they faced in maintaining their own names and dual nationality, and how many judges, school principals and police officers were of Korean origin.

32. **Ms. McDougall** said that the agreement on the question of "comfort women" reached between the governments of Japan and the Republic of Korea was not an appropriate means of resolving the issue. In the 25 years she had worked on the question, she had never been able to understand what prevented the State party from simply offering apologies and reparation in a manner the victims felt appropriate to their dignity. Such an agreement did not extinguish individual claims. The way forward was simple: to involve the victims themselves in the design of adequate reparations and an appropriate form of apology. The problem was exacerbated by the fact that officials were not punished for hate speech against Koreans.

33. She would appreciate hearing the delegation's comments on violence against women in Okinawa and the situations involving the United States military stationed there.

34. **Mr. Murillo Martínez**, noting that, according to the 2013 Hokkaido Ainu living conditions survey, 33 per cent of respondents had experienced discrimination in school, employment, marriage or other situations, asked what action had been taken as a result. Did the State party intend to retain the question on racial discrimination in future surveys? Given the State party's extensive commercial ties outside the country, he wondered to what extent Japanese companies abroad were expected to apply the same human rights standards that applied within the country.

35. **Ms. Izsák-Ndiaye** said that, in determining whether an utterance qualified as punishable hate speech, the whole context of the situation needed to be analysed. However, it was important not to underestimate the social damage that could be done by public expressions of hatred and it was regrettable that the frequency and size of xenophobic demonstrations had increased in Japan in recent years.

36. Given that intercultural dialogue and exchange were necessary in order to tackle the root causes of intolerance, she said that she would like to know in what way the school curriculum allowed minorities and indigenous peoples adequate representation in order to enrich Japanese society with their own culture and traditions. How did the State party ensure that minorities' voices were adequately broadcast in the media in respect of issues affecting them? She wondered how the State party facilitated the registration and functioning of minority media organizations to enable them to counter hate speech in the media.

37. She was concerned that, despite the entry into force of the Act on the Promotion of the Elimination of Discrimination against Buraku, discrimination against Burakumin was not clearly prohibited and no action plan was foreseen to ensure equal opportunities for that group. She would like to know whether the State party intended to amend the law in order to remedy the current shortcomings and make specific provision to ensure equal treatment. Did the State party plan to guarantee the effective participation of the Burakumin, particularly women, in decision-making processes that affected them directly? She wondered what measures were planned to protect Buraku people from illegal access to their family data. Was the State party planning to establish a coordinating body on the relevant issues within the Cabinet Office? Lastly, she said that she would appreciate information from the delegation on education and awareness-raising measures to eliminate discrimination against the Burakumin.

38. **Mr. Calí Tzay** said that he understood that, under the Public Assistance Act, non-nationals were excluded from receipt of public assistance. The Government's position was that they might receive assistance as a favour; the Supreme Court had confirmed that it was not a right and that non-nationals were not protected by the Act. Moreover, whereas Japanese nationals had legal recourse in the event of an unfavourable response to their application, non-nationals did not.

39. It was his understanding that the State party's system for the revocation of the residency status of foreign nationals discouraged foreign women married to Japanese men from reporting domestic abuse for fear that their residency permits would be revoked. The Committee's view was that the State party should abolish the system. The State party should also conduct studies on discrimination on the grounds of race and nationality, collate up-to-date statistical data on socioeconomic indicators and establish a general, comprehensive anti-discrimination law that prohibited discrimination based on race, rather than relying solely on anti-discrimination provisions contained in the Constitution.

40. He was interested to know whether the State party would consider establishing a comprehensive law on the protection of the rights of residents from the former colonies of Japan, such as ethnic Koreans, and their descendants, thus affording them protection on an equal footing with Japanese citizens, and whether it planned to grant them the right to vote or the right to occupy posts in the public administration. It would also be useful to know whether the State party would consider introducing classes in schools on the language, culture and history of ethnic Koreans in Japan.

41. **Mr. Avtonomov** said that he would be grateful for the State party's comments on reports that its special re-entry permission system discriminated against nationals of the Democratic People's Republic of Korea living in Japan, who were excluded from the

programme because their passports were not considered valid by the authorities for political reasons.

42. Although the information provided on the Technical Intern Training Programme was helpful, he would be grateful for the State party's comments on reports that other types of foreign interns continued to face employment issues.

43. **Ms. Li** said that it would be useful to learn whether the State party would consider withdrawing its reservation to subparagraphs (a) and (b) of article 4 of the Convention. She would also welcome additional information on the measures that the State party had taken to prevent hate crimes, prosecute their perpetrators and afford remedies to their victims.

44. She invited the State party to comment on reports that technical intern trainees continued to endure frequent violations of their human rights and poor working conditions, despite the promulgation of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees, and were often forcibly repatriated before the end of their contracts. It would be interesting to have a full account of any steps that the State party had taken to address that issue.

45. She found it regrettable that, in spite of the Committee's recommendations, no positive action had been taken by the State party to resolve the issue of comfort women. She hoped that the Government would promptly take action to deal with the issue.

46. **Ms. Chung** said that the continuing issue of comfort women was an affront to the dignity of all women. The majority of comfort women came from the Korean peninsula, but many victims hailed from other countries in Asia and even Europe. Any measures that the Government took to resolve the issue would therefore be celebrated throughout the world as a victory for human rights, especially those of women. The State party should condemn any attempts to deform or deny the reality of the events endured by comfort women.

47. The Committee had received reports that the national Government had pressured local governments to stop providing subsidies to ethnic Korean schools because of their connection with the Korean peninsula, in other words, for political reasons. The national Government should refrain from making such demands of local governments.

48. She wished to know whether the State party planned to take measures to eliminate online hate speech. It would also be useful to know why protection under the Hate Speech Elimination Act was extended only to persons originating from outside Japan, rather than to all victims of hate speech. In addition, the State party should clarify whether it planned to establish a national human rights institution that met the criteria established under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

49. Lastly, she would welcome an explanation of why the Government had not accepted the conclusions and recommendations of a number of United Nations bodies regarding discrimination against Buraku communities and the definition of Burakumin.

50. **Mr. Diaby** said that he wished to know whether the State party planned to introduce self-regulatory mechanisms for online, written and audiovisual press with a view to controlling and reprimanding hate speech. He was also interested to know whether the State party collated statistics regarding the harm caused to the Ryukyu community in Okinawa by accidents linked to the presence of military air force bases on the island and whether it planned to take any action to protect the community from further harm. In addition, it would be useful to know whether the State party had considered acceding to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. Lastly, he would appreciate further details on the State party's policy regarding the ethno-religious profiling of the Muslim minority in Japan.

The meeting rose at 6 p.m.

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International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
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Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of the 2663rd meeting
Held at the Palais Wilson, Geneva, on Friday, 17 August 2018, at 10 a.m.

Chair: Mr. Amir

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined tenth and eleventh periodic reports of Japan (*continued*)
(CERD/C/JPN/10-11 and CERD/C/JPN/Q/10-11)

1. *At the invitation of the Chair, the delegation of Japan took places at the Committee table.*

2. **Ms. Shepherd** said that she was interested to know how article 5 of the Convention, particularly in respect of the right to education and training, was interpreted and applied in the State party. She was impressed that Japan had achieved gender parity in the rate of advancement to secondary school, with figures of over 98 per cent for both boys and girls. However, she was curious to know whether minority and foreign students were subject to the compulsory education policy and whether they were afforded adequate opportunities to learn Japanese in order to be competitive in the education system.

3. The Committee was interested to know why, in the 2010 population census, the school attendance of 13,000 children aged 7–14 years was unknown. The data provided on the school attendance and drop-out rates in primary and secondary education were welcome; however, she wondered whether children from minorities were more likely to drop out of school and whether education in minority languages was adequately guaranteed. It was a matter of concern that Korean students continued to be excluded from the High School Tuition Support Fund, despite the recommendation contained in the Committee's previous concluding observations (CERD/C/JPN/CO/7-9). She hoped that the matter would be reconsidered, since the statistics made clear that Koreans provided with adequate support were able to excel at university.

4. Drawing attention to paragraph 78 of the report, she asked whether the Basic Act on Education was in full conformity with the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization, since it appeared that article 4 of the Basic Act was not aligned with article 1 of that Convention or article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. She appealed for the State party to reconsider its position on the Convention against Discrimination in Education.

5. Lastly, she expressed concern about the issue of comfort women and the hope that claims for redress would be settled. She commended the State party for engaging with civil society in the preparation of the report, having taken on board the Committee's previous concluding observations in that regard.

6. **Mr. Otaka** (Japan) said that in keeping with article 4 of the Convention, the Penal Code contained broad provisions for the prosecution of individuals and groups who circulated ideas based on racial superiority and who incited racial and religious hatred. Although the Government recognized that its laws in that regard were not fully comprehensive, it needed to give careful thought to how it would address the issue, considering the need to ensure that any new criminal provisions did not conflict with the Constitution and did not curtail freedom of speech.

7. Referring to the absence of a specific and comprehensive law prohibiting racial discrimination, he pointed out that article 14 of the Constitution established that "all people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin". That principle was extended to employment, education, access to medicine and medical treatment and the use of transportation, among other areas. Provisions prohibiting racial discrimination included article 3 of the Labour Standards Act, which stipulated that "an employer shall not engage in discriminatory treatment with respect to wages, working hours or other working conditions by reason of the nationality, creed or social status of any worker", while article 4 of the Basic Education Act provided that "the people must be given equal opportunities to receive an education suited to their abilities, and must not be subjected to discrimination in education on account of race, creed, sex, social status, economic position, or family origin".

Victims of racial discrimination could apply for damages and compensation under the Civil Code. The Ministry of Justice responded to enquiries about racial discrimination and swiftly investigated suspected infringements.

8. All Japanese people living in Okinawa Prefecture, regardless of their origin, were afforded the same rights and allowed to practice their religion and culture. The Government recognized and respected that the people of Okinawa had a unique tradition and had passed laws to preserve such traditions throughout Japan. However, it considered that the only indigenous people of Japan were the Ainu; there was no widespread understanding in Japan that people in Okinawa were an indigenous people and they did not regard themselves as such. Although some young people were unemployed, measures had been adopted to boost tourism and the number of people working had increased since the island had been returned to Japan in 1972; the social and economic situation was currently improving. Regarding the crimes committed by personnel employed at United States military bases, the Government of Japan considered that the only measure that would reduce such incidents was the relocation of the Futenma air station.

9. The Government expressed its remorse and regret over the issue of comfort women, recognizing that it had been an affront to the dignity of many women. In July 1995, the Asian Women's Fund had been established by the Government and citizens to provide relief for former comfort women from Korea, Indonesia, the Netherlands, the Philippines and Taiwan, including "atonement money" and the provision of welfare and medical support. Furthermore, the then Prime Minister had sent a letter to each former comfort woman. The programme of the Asian Women's Fund had been implemented to the largest extent possible and atonement money had been paid to 61 former comfort women from Korea, who in turn had conveyed their appreciation to the Government and to the people of Japan who had supported the Fund. Unfortunately, some people had a tendency to misunderstand the situation, compounded by the publication of statements that had subsequently been confirmed as fictitious. In that regard, he recalled that the comfort women issue had received significant public attention as a result of a 1983 book by Mr. Seiji Yoshida, which claimed that the Japanese military had "hunted" Korean women on the island of Jeju. Although the author later admitted to inventing that episode, the falsehood had spread all over the world. Therefore, he underscored the importance of looking at the facts objectively and he invited the Committee to examine the expert studies and research that had been published and translated into English.

10. In 2015, a final and irreversible agreement on comfort women had been signed by Japan and the Republic of Korea and welcomed by the Secretary-General of the United Nations and the international community at large. The aim of the agreement, in a spirit of reconciliation and healing, was to restore the dignity and reputation of former comfort women. A new settlement had been reached and accepted by 36 of the 47 surviving women. He pointed out that it was neither factually accurate nor appropriate to use the term "sexual slavery" or to refer to comfort women as sex slaves. The Government of Japan opposed the use of such terms and the Government of the Republic of Korea had recognized that they should be avoided.

11. Due consideration was being given to a number of issues relating to the human rights bodies of the Ministry of Justice, which were administered in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). However, the Government was not yet in a position to give more specific details.

12. In 2005, the Government had criminalized trafficking in persons and related activities in accordance with the definition provided under article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Further steps to protect non-Japanese trafficking victims included the granting of special visas so that victims could remain in the country, the establishment of information centres to provide support, and close cooperation with embassies. Although the Government did not believe that new laws were necessary, it had committed to taking appropriate measures to combat trafficking and to protect and support victims.

13. The revised Action Plan to Combat Trafficking in Persons had been adopted in December 2014 and a conference on trafficking had been held with the participation of all ministries. Japan implemented strict immigration controls and the Immigration Bureau of the Ministry of Justice worked with the police to investigate and address any detected issues, including incidents of trafficking victims being subjected to labour or sexual exploitation. The police and other authorities held meetings with businesses to explain the issue and to provide information and raids were carried out on companies suspected of exploiting trafficking victims. Efforts were also invested in training police, embassy and other officials to ensure the protection of victims.

14. Victims of human trafficking were afforded protection under the law. Immigration officials examined the situation of each victim and in most cases issued a special permit for the person to stay in the country. Any foreigners who were confirmed to be victims of human trafficking were provided with accommodation, legal aid, medical support and advice on education and employment. Under the Medical Practitioners' Act, no patient could be denied treatment on the basis of his or her nationality. Victims of human trafficking could discuss human rights issues with a Ministry of Justice representative, who would give advice and direct them to the appropriate agency to handle their queries. Officials of those agencies could explain criminal procedures and investigations in the country. If a Government official suspected that any human rights violation had taken place, an investigation would be initiated and appropriate action would be taken. Strict penalties were imposed for human trafficking and related crimes. In 2014, the police force, Ministry of Justice, Supreme Court, Ministry of Health, Labour and Welfare and the Coast Guard had launched a joint task force to combat human trafficking. To that end, members of the task force had consolidated their experiences and expertise to write guidelines for the immigration officials.

15. Those applying for refugee status were provided with housing and medical support. Refugees were issued a residence permit and allowed to work in the country. Despite the fact that some false refugee applications had been made, more than 90 per cent of applications had been approved and work permits had been issued to all refugees within six months of their application. Awareness-raising measures had been implemented to promote understanding of refugees and their status. Those measures included the publication of pamphlets and the organization of seminars, workshops and international cooperation events.

16. The Ministry of Justice was taking measures to eradicate prejudice and discrimination against foreigners. Seminars and other awareness-raising activities had been organized for local communities and private sector actors. The police were required by law to be neutral and did not engage in profiling on the basis of ethnicity or religion. New police recruits and other staff working in crime prevention or criminal detention underwent specific human rights training.

17. Under the Basic Act on Education, all citizens had equal education rights. Foreigners living in the country benefited from the same rights to education as nationals. The Government would examine the conformity of its legislation with the Convention against Discrimination in Education, however, there were no plans in place to ratify that Convention in the near future. The Government would carefully study compliance with the Convention relating to the Status of Stateless Persons.

18. **Mr. Sugiura** (Japan) said that Article 15 of the Constitution stipulated that only Japanese citizens could hold elected office. In accordance with Article 93 of the Constitution, at the local government level only Japanese citizens with an address in the district could participate. The question of foreign residents voting in elections would be discussed in the Diet.

19. In line with accepted international practice, individuals without a valid passport could not enter the country because their identity could not be verified. However, an entry visa could be used as an alternative to a valid passport. For example, the Government did not accept the validity of passports issued by the Democratic People's Republic of Korea but those citizens could enter the country by means of an entry visa. That practice did not

amount to racial discrimination as it was not limited to citizens of the Democratic People's Republic of Korea.

20. The Ministry of Justice gathered immigration data by means of a census survey. In order to qualify for public housing immigrants needed to fulfil the selection criteria. If they had difficulties finding housing, they could join the housing register. Members of the register enjoyed many benefits with regard to housing. Children of immigrant parents were free to attend either public or private school. The Government offered guidance to employers with the aim of eliminating discrimination in employment. Labour regulations applied to all workers, regardless of citizenship or nationality. Immigrants could access health care, whether or not they had citizenship.

21. The Government provided guidance to private companies on how employees should be treated, in accordance with the regulations of the Organization for Economic Cooperation and Development and the guiding principles of human rights. In that regard, forums were held with stakeholders and action plans had been developed for Japanese businesses. His Government would continue to promote non-discrimination.

22. **Mr. Sugihara** (Japan) said that the Ministry of Justice was working to eliminate discrimination of the Buraku population and the social problems experienced by Buraku communities. Legislation was in place to that effect; a specific law had been adopted in 2016 to combat racial discrimination. Under that law, both local and national governments were obliged to implement awareness-raising measures and establish consultation centres for Buraku people. The Ministry of Justice facilitated access to legal recourse for victims of discrimination. The Ministry also distributed leaflets and uploaded videos to YouTube in order to raise awareness about racial discrimination. No discrimination against any Japanese citizen was allowed and the Government was working to eliminate the issue of online discrimination. A study on discrimination of the Buraku people would be used to develop more effective measures against discrimination.

23. **Mr. Sugiura** (Japan) said that racially motivated hate speech against the Buraku population was not a problem in the country. He would like to thank the Committee members for acknowledging the improved socioeconomic situation of that population.

24. **Mr. Hamada** (Japan) said that hate speech would not be tolerated in his country. The Government had taken steps to raise awareness about that issue and had implemented measures to eliminate it. The Hate Speech Elimination Act had come into force in 2016. That Act did not establish a specific penalty for hate speech. However, perpetrators could be prosecuted for defamation, insult, obstruction of business or intimidation. The Ministry of Justice had established a system for consultations with victims of hate speech, both nationals and foreigners. Offices had been established under the auspices of the Ministry of Justice to carry out consultations with victims of hate speech and other human rights violations. Those offices were staffed by volunteer human rights commissioners who were selected by the Ministry. Information collected by the human rights commissioners was used to initiate investigations into human rights abuses and analyse the extent of human rights issues in the country. The results of those investigations and analyses would be used to develop further measures against abuses of human rights. Surveys and interviews had been used to draft a law on the elimination of hate speech. Although the unacceptable nature of discriminatory discourse was widely recognized in society, the results of a 2017 public opinion survey had revealed that some people were not aware of the issues relating to hate speech. The Government was therefore focussing on education and awareness-raising activities. Officials were working to find more effective methods of preventing hate speech and other human rights violations.

25. **Ms. Kishimoto** (Japan) said that the Broadcast Act provided that broadcasters must not air programmes that harmed public safety or good morals, and that their reporting must not distort the facts. The Government recognized that broadcasters played an important social role by editing programmes independently within the framework of the Broadcast Act.

26. **Mr. Hamada** (Japan) said that a model legislative provision governed the Government's response to illegal and harmful information. Any health-related online content that was considered discriminatory was regulated by that provision. In particular,

all Ministry of Justice bureaus responded swiftly to claims of online discrimination by checking the relevant websites and asking providers to remove content that infringed human rights. Providers were asked to provide specific information on how they would remove offending content from the Internet, and were given advice to that effect.

27. Public servants, regional government employees, teachers, law enforcement officials, judges and the staff of correctional facilities and immigration bureaus received wide-ranging training with regard to human rights issues, including racial discrimination.

28. The Government was aware that hate speech, which incited conflict and must not be tolerated, was the product of a discriminatory mindset. Measures were in place to increase the value placed upon human rights by society as a whole. The goal was to make people aware that discriminatory behaviour by persons of any race was prohibited.

29. The Ministry of Justice sought to foster respect for non-Japanese people by holding lectures and commissioning videos and television dramas that addressed the topic. It also created posters, comics, booklets and leaflets, examples of which had been provided to the Committee for its information. Many such materials were available on the website of the Ministry of Justice. The slogan on one of the main posters translated as "We will not allow hate speech". Japanese comics, or manga, were also produced by the Government and distributed widely. Since comics were beloved of young and old alike in Japan, they were an effective way of raising awareness. Leaflets provided at immigration bureaus and embassy offices explained the ways in which non-Japanese people could obtain help via information desks and a special hotline. English versions were available for those who could not read Japanese. Lastly, the Ministry of Justice carried out a number of other activities to protect human rights, and a blue booklet had been published to explain those activities in an easy-to-read format.

30. The Government was aware that awareness-raising activities took time. However, it believed that they constituted an effective method of working towards the elimination of hate speech and all other forms of discrimination. In addition, it hoped to make further efforts in future, including in the legislative realm, to tackle that very difficult issue.

31. **Mr. Sugiura** said that the Hate Speech Elimination Act had been discussed by members of both the ruling political party and opposition parties. Therefore, while criminalization and legal penalties for engaging in hate speech might be an option in the future, the consensus decision had been to start with that particular Act. Hate speech by State-sector workers was handled in accordance with the law and the facts.

32. **Mr. Yamamoto** said that children who had foreign nationalities were eligible to receive public education in Japan as long as they so desired. Children had the right to receive compulsory education in Japan irrespective of their residency status. A support system was available to foreign children, including support for learning their mother tongue. Alternatively, such children had the right to attend foreign schools in Japan.

33. The High School Tuition Support Fund was not limited to Japanese children, but was used to support children of all nationalities provided that their school was certified in accordance with the regulations. Students at foreign schools could also qualify for money from the Fund. As schools received such funds on behalf of the students, it was imperative that the correct management and operation processes were in place. In future, Korean schools would also be eligible to receive money from the Fund if they complied with the relevant Japanese laws and regulations. To date, there had been five cases before the Japanese courts involving Korean schools that had not received financial resources from the High School Tuition Support Fund System. Three of the four cases already decided had been judged in favour of the Government of Japan.

34. Another fund existed from which money could be allocated to schools by local governments. In March 2016, the Ministry of Education had issued a notification to explain the terms of that fund, which was for schools that had completely transparent operations. No legislation had been enacted to exclude any specific type of school from the programme.

35. Students who graduated from foreign schools could gain admission to Japanese universities provided that they held the requisite qualifications. Legislative amendments

were also being enacted to extend the ways in which students could gain admission to Japanese universities. In 1999, it had been decided that students from non-Japanese schools could take a special university qualification examination. In 2003, various universities had awarded entry based on interviews and the examination of applicants' education histories.

36. **Mr. Iriyama** (Japan) said that surveys had been conducted in Japan to acquire information about the education, work and living conditions of the Ainu people. In Hokkaido, a policy to improve their lives had been implemented for the period 2016–2020 after three rounds of revisions. The social and economic status of the Ainu people had consequently improved, as shown by the most recent survey to evaluate the impact of the policy, conducted in 2017. The policy would be continued and applied not only in Hokkaido but in other areas of Japan by the relevant regional bodies. The Government of Japan would support those regional bodies to ensure the successful implementation of the policy.

37. **The Chair**, thanking the delegation for the large number of answers provided, said that any responses to questions not yet answered that were submitted in writing within 48 hours would be taken into account in the Committee's concluding observations.

38. **Mr. Avtonomov** said that he wished to thank the delegation for the information it had provided regarding the Burakumin. However, he wished to stress that the issue had been raised because the Committee considered the term "descent" to have a particular meaning under article 1 of the Convention, as expressed in general recommendation No. 24 (1999). Specifically, discrimination based on "descent" included discrimination against members of communities based on systems of inherited status which nullified or impaired their equal enjoyment of human rights. While he was grateful to have been provided with information about the Act on the Promotion of the Elimination of Buraku Discrimination, adopted in 2016, he had read the law and, because no specific funding was allocated for its implementation, he was concerned that it was not enforceable.

39. As the State party had not ratified the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), he would be pleased if it could explain, in its next periodic report to the Committee, any plans it had to ratify that Convention.

40. **Mr. Marugán** said that, while it was commendable that the State party had very good training, awareness-raising and education policies for the elimination of hate speech, he failed to see how the Government prohibited hate speech in practice to give effect to article 4 of the Convention. He would be grateful if the delegation could provide examples of how the obligations stipulated in article 4 had been fulfilled in the Japanese legal system or through convictions or penalties. It was his understanding that crimes that were racially motivated did not incur specific penalties in the State party. He would welcome examples of how acts of incitement to racial violence had been punished.

41. With regard to training, he would be interested to know exactly what kind of training was provided to judges and civil servants. Training on racist motives, in particular, was recommended. Lastly, he would appreciate clarification regarding whether and why teachers of foreign nationalities could not be assigned to managerial positions in Japan.

42. **Mr. Calí Tzay** said that, according to reports, cases of hate speech had increased since the adoption of the Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behaviour against Persons Originating from Outside Japan (Hate Speech Elimination Act). He would like to know whether the Government intended to conduct a study into the rise of such cases. According to the most recent Hokkaido Ainu Living Conditions Survey of 2013, there were approximately 13,000 such persons living in Japan. However, their numbers had decreased by over 1,000 persons in comparison to the 2006 Survey and he would be grateful for an explanation as to why that was the case. Similarly, he asked why there had been a reduction in the number of Ainu children attending secondary school between the Surveys of 2006 and 2013.

43. **Mr. Murillo Martínez** said that he would appreciate a comment from the delegation on whether the State party had any mechanisms in place for following up on the recommendations issued by international bodies, such as the Committee. Some States

parties had established inter-institutional bodies in their respective countries for that purpose and he wondered whether Japan had considered doing the same.

44. **Ms. Chung** said that the efforts by the Asian Women's Fund (AWF) to redress the plight of comfort women had been undertaken without a thorough investigation of the facts, without recognition of legal liability and without a formal apology at the State level. The majority of victims and civil society organizations opposed AWF and its attempts at addressing the issue because it had approached victims individually, knowing that it would be difficult for the former comfort women, many of whom were destitute, to refuse the money that they were being offered as compensation. Some victims felt obliged to hide the fact that they had accepted the money and therefore endured a second affront to their dignity.

45. Although it was unclear whether the memoirs of Seiji Yoshida were true, his accounts were not the only ones to demonstrate the suffering imposed on comfort women. There were a vast number of other written documents, photos, videos and personal testimonies that attested to the plight of such women. She also noted that the 2015 agreement reached between Japan and South Korea on the issue of comfort women had been criticised by the United Nations for not offering a victim-oriented approach. Regarding terminology, United Nations human rights bodies had been using the term "sex slavery" in relation to comfort women since the 1990s. Similarly, the South Korean non-governmental organization (NGO) working on the same issue was called the Korean Council for the Women Drafted for Military Sexual Slavery by Japan.

46. In respect of North Korean schools, she asked how such schools did not comply with Japanese regulations and with which regulations in particular. She also sought clarification as to whether the decision to exclude North Korean schools from the High School Tuition Support Fund System was politically motivated following the official acknowledgement in 2002 by North Korea that it had abducted Japanese nationals.

47. **Mr. Bossuyt** (Country Rapporteur) said that he did not understand why the Hate Speech Elimination Act was limited only to persons of foreign origin and, therefore, noted the need to improve the Act's scope of protection. The State approach to the issue of comfort women could be improved; efforts to minimize the crime or deny its occurrence were not acceptable solutions. He would like an explanation as to why the term "sexual slavery" was not appropriate when used in connection with comfort women. He urged the State party to rethink its decision not to offer subsidies to students attending Korean schools. The abduction of Japanese nationals by North Korea could not be blamed on children attending such schools and the majority of the pupils were in fact of South Korean origin.

48. **Ms. Izsák-Ndiaye** said that the participation of the Buraku people in decision-making was a key element to ensuring their representation and that a consultation centre should be established in Buraku communities for that purpose. She would like to know why, in accordance with the law, non-nationals were not permitted to take up public functions. She was concerned about intersecting forms of discrimination against minority women. A 2016 study on Korean women revealed that the majority of them suffered from anxiety particularly out of fear for their children and the increasing hate speech to which the children were subjected. Approximately 40 per cent of the women surveyed had reported discrimination based on nationality and almost 100 per cent based on gender. In 2005, Buraku women had conducted their own questionnaire with the participation of nearly 1,500 women. The results had found discrepancies between their status in the fields of literacy, employment, discrimination and domestic violence and that of women from non-minority communities. According to a 2004 survey of Ainu women, only 36 per cent of them attended high school and those who did not cited poverty and the discriminatory attitude of school administrators and classmates as their main reasons for not attending.

49. Owing to the revocation of the system of status of residence, migrant women refused to report violations of their rights to the police out of fear that their right to remain in Japan would be rescinded. Reports had also been received about inequalities in access to social security, particularly for non-nationals with disabilities. She noted with regret that the Supreme Court of Japan refused the appointment of non-national attorneys to the post of

Conciliation Commissioner of Domestic Relations, which was to the detriment of non-national women suffering domestic abuse. She asked how Japan ensured that sufficient attention was paid to persons suffering from intersecting forms of discrimination; how the Government planned to collect relevant data disaggregated by gender, ethnicity, disability and age and what remedies were in place to ensure the equal rights and opportunities of discriminated groups in society.

The meeting was suspended at 12.25 p.m. and resumed at 12.40 p.m.

50. **Mr. Otaka** (Japan) said that he had personally participated in discussions on the interpretation of article 1 of the Convention with regard to the term "descent". The term would continue to be interpreted in the same way as it had been since the ratification by Japan of the Convention.

51. **Mr. Sugiura** (Japan) said that Japan maintained its reservations to article 4 (a) and (b) of the Convention and, therefore, was under no obligation to criminalize hate speech or crime. Nevertheless, it had taken steps to legislate against such crimes through the adoption of the Hate Speech Elimination Act.

52. **Mr. Otaka** (Japan) said that he understood the need for a victim-oriented approach when addressing the issue of comfort women. The Japanese Government was doing its best to cooperate with the Government of South Korea to that end, as demonstrated by the 2015 agreement between the two countries. However, it must be noted that there had been misinformation and fabrication of facts by the media or certain authors. The Government of Japan strongly opposed the use of the term "sexual slavery" in relation to the issue of comfort women.

53. He stressed that there was nothing racially discriminatory about the decision of the Government to suspend funding for Korean schools. The decision had been taken because those schools were under the control of Chosen Soren and were not appropriately using the State funds provided to them. The Government believed that efforts should be taken to eliminate hate speech by adopting a bottom-up approach. The pamphlet and comic book that had been produced for that purpose was an attempt to educate people about the hurt that their words might cause another person.

54. **Ms. Sakai (Azuma)** (Japan) said that a public servant involved in decision-making must have Japanese citizenship. Mediators working in family courts were also required to have Japanese citizenship as they were considered to have an impact on the formation of national ideas.

55. **Mr. Iriyama** (Japan) said that Ainu remains were kept in national history museums and more information in that regard was available on the website of the Ministry of Education, Culture, Science and Technology. The reduction in the Ainu population might be a result of the ageing population, the migration of Ainu persons or their lack of participation in the national census. More and more Ainu were attending high school thanks to the subsidies provided by the Government.

56. **Mr. Otaka** (Japan) thanked the Committee for listening to their responses and he assured all members that his delegation would work hard to meet the deadline for providing written responses to the remaining questions of the Committee.

The meeting rose at 1 p.m.